

Attorney Docket No. P-144-US2
Application Serial No.: 10/691,094
Page 5 of 6

Remarks

Applicants respectfully request reconsideration of this application in view of the above amendments and the following remarks.

1. Status of the Claims

Claims 22-24, 26-30, and 32-33 were pending in this application. Claims 22 and 28 have been amended; and Claims 26-27 and 32-33 have been canceled. Upon entry of the above amendments, Claims 22-24 and 28-30 will be pending in the application.

2. Status of the Application

A Final Office Action was mailed on August 22, 2005.

3. Amendments to the Claims

Claim 22 has been amended to incorporate the subject matter of original Claim 27 that the Examiner has identified as enabled.

Claim 28 has been amended to incorporate the subject matter of original Claim 33 that the Examiner has identified as enabled.

Claims 26-27 and 32-33 have been canceled, without prejudice or disclaimer. Applicants reserve the right to file a continuation application directed to the non-elected subject matter of these claims.

No new matter has been added.

Entry of these amendments is respectfully requested to place the application in condition for allowance.

4. Rejection of Claims 22-24, 26-30, 32, and 33

Claims 22-24, 26-30, 32, and 33 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly not being enabled.

BEST AVAILABLE COPY

Attorney Docket No. P-144-US2
Application Serial No.: 10/691,094
Page 6 of 6

Although not acquiescing to the Examiner's position, in order to expedite issuance, Applicants have amended the claims as suggested in the August 22, 2005 Final Office Action. Claims 22 and 28 now recite a list of specific conditions responsive to a tyrosine kinase inhibitor, i.e., acute myeloid leukemia, small cell lung cancer, prostate cancer, gastrointestinal cancer, breast cancer, brain cancer, and restenosis. The Examiner has indicated that these changes would obviate the rejections brought under 35 U.S.C. § 112, first paragraph.

Claims 22-24 and 28-30 have also been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. The present amendments have also obviated the rejection under 35 U.S.C. § 112, second paragraph.

Accordingly, the pending claims, as amended, satisfy the requirements of 35 U.S.C. § 112, first and second paragraphs. Applicants respectfully request entry of these amendments and withdrawal of these rejections.

5. Conclusion

Applicants thank the Examiner for setting forth allowable subject matter.

Upon entry of the above amendments, this application is in condition for allowance and a notice to that effect is respectfully requested.

Should there be any issues regarding this application that can be resolved by telephone, the examiner is invited to telephone the undersigned agent for Applicants at (650) 808-6144 (direct).

Respectfully submitted,

Date: October 5, 2005

By: Joyce G. Cohen

Joyce G. Cohen
Reg. No. 44,622

THERAVANCE, INC.
901 Gateway Boulevard
South San Francisco, CA 94080
Tel: (650) 808-6000
Fax: (650) 808-6078

BEST AVAILABLE COPY